

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

BERNADETTE MALDONADO,

Plaintiff,

v.

No. CV 21-1 CG

KILOLO KIJAKAZI,¹
Commissioner of the
Social Security Administration,

Defendant.

**ORDER GRANTING UNOPPOSED MOTION TO AWARD ATTORNEY FEES
UNDER THE EQUAL ACCESS TO JUSTICE ACT**

THIS MATTER is before the Court on the Plaintiff Bernadette Maldonado's *Unopposed Motion for Attorney Fees Pursuant to the Equal Access to Justice Act, with Memorandum in Support* (the "Motion"), (Doc. 25), filed December 17, 2021. In the Motion, Ms. Maldonado, by her attorney Laura J. Johnson, Esq., indicates that Ms. Maldonado seeks attorney fees in the amount of \$5,900.00. *Id.* at 1. Further, the parties agree that "[p]ayment of this amount shall constitute a complete release from and bar to any and all claims Plaintiff may have relating to [the Equal Access to Justice Act ("EAJA")] fees in connection with this action[,] and that "the EAJA award is without prejudice to Plaintiff's attorney's right to seek attorney fees pursuant to Social Security Act § 206(b), 42 U.S.C. § 406, subject to the offset provisions of the EAJA." *Id.* at 1-2. The Court, having reviewed the Motion under EAJA, 28 U.S.C. § 2412, and noting that the Motion is unopposed, finds the Motion is well-taken and shall be granted.

¹ Kilolo Kijakazi was appointed Acting Commissioner of the Social Security Administration on July 9, 2021.

IT IS THEREFORE ORDERED that Plaintiff Bernadette Maldonado be awarded \$5,900.00 in attorney fees pursuant to EAJA, 28 U.S.C. § 2412, made payable to Ms. Maldonado but mailed to her attorney. See *Astrue v. Ratliff*, 560 U.S. 586 (2010) (EAJA fees are paid to the prevailing party, not the attorney).

IT IS FURTHER ORDERED that if Ms. Maldonado's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, her counsel shall refund the smaller award to Ms. Maldonado pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS SO ORDERED.



THE HONORABLE CARMEN E. GARZA
CHIEF UNITED STATES MAGISTRATE JUDGE